IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GLEN CALDWELL,

Plaintiff,

vs.

CHAN, et al.,

Defendants.

CIV-S-04-2693 RRB GGH PS

## ORDER OF DISMISSAL

On November 23, 2005, the Magistrate Judge filed Findings and Recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Plaintiff filed objections on December 2, 2005, and they were considered by the District Judge.

This Court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of

ORDER OF DISMISSAL - 1 CIV-S-04-2693 RRB GGH PS fact to which no objection has been made, the Court assumes its correctness and decides the motions on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983).

The Court has reviewed the applicable legal standards and, good cause appearing, concludes that it is appropriate to adopt the Proposed Findings and Recommendations in full. The Motion to Dismiss should be granted both on procedural grounds and for the substantive reasons argued by Defendants.

Furthermore, the Court notes that Plaintiff has significant experience with the court system and the local rules of procedure having filed several cases in this District within the past five years.

## Accordingly, IT IS ORDERED that:

- 1. The Proposed Findings and Recommendations filed November 23, 2005, are **ADOPTED;** and
- 2. This action is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b).

ENTERED this 13th day of December, 2005.

ORDER OF DISMISSAL - 2 CIV-S-04-2693 RRB GGH PS /s/

RALPH R. BEISTLINE

UNITED STATES DISTRICT JUDGE